

# Exhibit C

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21 PSC Member on Behalf of All Plaintiffs

22 [Additional counsel appear on signature page.]

23 UNITED STATES DISTRICT COURT  
24  
25 NORTHERN DISTRICT OF CALIFORNIA

26 In re MCKINSEY & CO., INC. NATIONAL ) Case No. 3:21-md-02996-CRB  
27 PRESCRIPTION OPIATE CONSULTANT )  
28 LITIGATION ) STIPULATION AND [PROPOSED] ORDER  
29 ) REGARDING JOINT PRIVILEGE  
30 ) PROTOCOL

1        WHEREAS, on October 27, 2022, this Court approved a Discovery Schedule in this case  
2 directing the parties to meet and confer and submit a joint proposed protocol on privilege issues  
3 (ECF 440);

4        WHEREAS, Defendants' initial production of discovery called for under the Discovery  
5 Schedule is underway; and

6        WHEREAS, the parties have conferred and hereby agree and stipulate to the following  
7 protocol on privilege issues:

8 **I. PRIVILEGE LOG**

9        1. Any document falling within the scope of any request for production that is withheld  
10 on the basis of a claim of the attorney-client privilege, the work product doctrine, or any other claim  
11 of privilege from discovery is to be identified by the Producing Party in a privilege log; and a  
12 privilege log should be produced, on a rolling basis, no later than 60 days following a production. A  
13 final privilege log should be produced within 30 days of substantial completion of document  
14 production.

15        2. Privilege logs will be produced in an Excel format, or other agreed-upon format,  
16 which allows the Receiving Party to search and sort any and all columns and entries of the privilege  
17 log.

18        3. Each privilege log produced by a Party should be numbered sequentially (*e.g.*,  
19 "McKinsey First Privilege Log").

20        4. A log of the documents withheld on the basis of privilege will be generated from the  
21 following corresponding metadata fields<sup>1</sup> to the extent they exist as electronic metadata associated  
22 with the original electronically stored information:

- 23            • Author  
24            • Subject  
25            • Title  
26            • Attachment Name

27        <sup>1</sup> For electronically stored information other than email and e-docs that do not conform to the  
28 metadata fields listed here, such as text messages, Instant Bloomberg, iMessage, Google Chat,  
Yammer, Slack, etc., the parties will meet and confer as to the appropriate metadata fields to be  
included in the privilege log.

- 1       •     File Name
- 2       •     Custodian(s)
- 3       •     Sender/From
- 4       •     Recipient/To
- 5       •     CC
- 6       •     BCC
- 7       •     Sent Date/Time
- 8       •     Created Date/Time
- 9       •     Date/Time Last Modified
- 10      •     File Extension
- 11      •     Attachment Count
- 12      •     Hash Value
- 13      •     Conversation ID or Thread ID

14       5.     Parties may substitute an alternative description of the content within the identified  
15     metadata field(s) where the content of the metadata field reveals privileged information. The  
16     Producing Party shall identify each instance in which it has modified the content of the field and the  
17     basis for the modification.

18       6.     Parties will also include on the privilege log fields containing: (a) a unique document  
19     ID; (b) the log production date; (c) information sufficient to understand the family relationship of  
20     withheld documents; (d) the privilege asserted (*e.g.*, attorney-client, work product); and (e) a  
21     description of the nature of the withheld document or communication in a manner that, without  
22     revealing information claimed privileged, will enable a party to assess the privilege claim.

23       7.     The privilege logs will clearly identify: (a) any attorneys on the privilege log using an  
24     asterisk or other agreed-upon method; and (b) any third party (in a different manner from attorneys).  
25     For McKinsey's privilege logs, third parties can be identified by including the full email address of  
26     any individuals who are not McKinsey employees, partners, or in-house or outside counsel.

27       8.     Should a Receiving Party have a good-faith reason to believe a particular entry or  
28     portion of the entry log is not accurate or does not provide adequate information, the Receiving Party  
29     may request additional information; the Producing Party will then supplement with a privilege log  
30     for that entry in compliance with Rule 26(b)(6) of the Federal Rules of Civil Procedure.

31       9.     To the extent any hard-copy documents or documents lacking sufficient metadata for  
32     which a Producing Party asserts a privilege applies, the Producing Party shall include in the privilege  
33     log:

1 log the information for such documents as is required by Rule 26(b)(5) of the Federal Rules of Civil  
2 Procedure, including the following:

- 3                 (a)       a statement of the ground(s) alleged for withholding such document;
- 4                 (b)       where clear from the face of the document, any date information, including  
5 the date the document was prepared and/or distributed;
- 6                 (c)       the identity of the document's author;
- 7                 (d)       where clear from the face of the document, the identity of all authors and/or  
8 recipients of the document, including an indication of authors or recipients who are attorneys;
- 9                 (e)       a description of the nature of the withheld document in a manner that, without  
10 revealing information claimed privileged or protected, will enable a party to assess the privilege  
11 claim;
- 12                 (f)       where clear from the face of the document, an indication of all authors or  
13 recipients of the documents who are third parties; and
- 14                 (g)       a unique document ID.

15                 10.      Notwithstanding a claim of privilege, any document containing both privileged and  
16 non-privileged matter must be produced with the purportedly privileged portion redacted, with the  
17 redacted portion indicated on the document itself.

18                 11.      Redacted documents need not be logged so long as: (a) for emails, the bibliographic  
19 information is not redacted; (b) all agreed-upon non-privileged metadata fields are produced; (c) the  
20 redaction is noted on the face of the document and in the redaction field of the load file; (d) the  
21 reason for the redaction (e.g., "Redacted for AC Privilege") is noted on the face of the document as  
22 produced; and (e) the redactions are implemented in such a way that sufficient context is available to  
23 understand the nature of the document and to assess the basis of the claim of privilege.

24                 12.      Should the Receiving Party have a good-faith reason to believe a redacted document  
25 does not provide adequate information to assess the claim of privilege, the Receiving Party may  
26 request additional information; the Producing Party will then supplement with a privilege log for that  
27 entry in compliance with Rule 26(b)(5) of the Federal Rules of Civil Procedure.

1       13.      Privileged communications exclusively between a Party (or its employees/partners)  
2 and its outside counsel representing the Party in this Action that post-date the issuance of a subpoena  
3 to McKinsey in *In re: National Prescription Opiate Litigation*, MDL 2804 (Jan. 2, 2019), are not  
4 required to be identified on the Producing Party's privilege log.

5       14.      Absent agreement by the Parties or court order, documents withheld on the basis of  
6 privilege will not be logged categorically.

7       15.      If a Party lodges a challenge to documents withheld on the basis of privilege, the  
8 Parties agree to *in camera* review of any withheld documents by Magistrate Judge Sallie Kim in  
9 order to assist the Court in evaluating the claims of privilege asserted.

10      IT IS SO STIPULATED.

11     DATED: March 3, 2023

ROBBINS GELLER RUDMAN  
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8 DATED: March 3, 2023

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17 DATED: March 3, 2023

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1 DATED: March 3, 2023

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10 DATED: March 3, 2023

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PSC Member – NAS Children

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STIPULATION AND [PROPOSED] ORDER REGARDING JOINT PRIVILEGE PROTOCOL -  
3:21-md-02996-CRB  
4858-4170-6831.v1

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13 Attorneys for McKinsey Defendants

14 **ATTESTATION PURSUANT TO LOCAL RULE 5-1**

15 I, Aelish M. Baig, am the ECF user whose identification and password are being used to file  
16 the SECOND STIPULATION AND [PROPOSED] ORDER REGARDING PRIVILEGE  
17 PROTOCOL. Pursuant to Local Rule 5-1(h)(3) and in compliance with General Order No. 45X.B., I  
18 hereby attest that Elizabeth J. Cabraser, Lloyd B. Miller, James R. Dugan, Scott R. Bickford, and  
19 Josh A. Cohen have concurred in this filing.

20 DATED: March 3, 2023

21 \_\_\_\_\_  
22 s/ Aelish M. Baig  
AELISH M. BAIG

23 \* \* \*



## CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on March 3, 2023, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Aelish M. Baig  
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